



2002 Report to the General Assembly

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Tennessee Division of Consumer Affairs

Mission Statement Purpose and Duties

**To Serve and Protect Consumers From Unfair or Deceptive
Business Practices**

Mediation

The Division mediated more than 5,554 written complaints in 2002, including all written inquiries and business files. Consumers recovered a new single year record \$6,846,599.00 because of the intervention of the Division. During the calendar years 1998 through 2002, the Division returned \$19,004,249.00 in cash and merchandise to consumers.

The top five complaint categories in 2002 were: Debtor/Creditor, Utilities, Home Improvement, Mail Order and Auto Repair.

The Division also acts as a clearinghouse for complaints. The Division works closely with the state's Regulatory Boards, other state and federal agencies and will refer complaints to those agencies that have better avenues of complaint resolution available to them.

This year the Division worked very closely with the Attorney General in settlement agreement concerning several organizations including the Ford Motor Company and Montgomery Ward.

Education

The Division's proactive consumer education philosophy prevented Tennessee consumers from wasting millions of dollars on consumer scams. Much of our education effort is encompassed within our telephone inquiries every day. The Division provides advice, business and product information and answers questions for dozens of consumers thus adhering to our legislative mandate of educating the citizens of Tennessee about consumer issues. The staff makes numerous presentations to interested groups every year and distributes free printed material as we did for the victims of the tornados in late 2002. The website we maintain is a part of the Department of Commerce and Insurance site and provides a wealth of consumer information and links to many other helpful sites.

Investigation

The investigative powers of the Division are an asset to consumers. The Division is consistently taking a pro-active stance in its protection of consumers by requesting information on any product or service a business sells. Division staff also selectively monitors and attends various meetings, seminars and trade shows for possible violations of the Tennessee Consumer Protection Act.

Litigation

At the request of the Division, the State Attorney General may take legal action against a person or business for a violation of the Consumer Protection Act. In 2002, fourteen formal actions were completed against businesses and persons on behalf of the Division, resulting in settlements totaling \$7,826,982.00. Payments totaling \$344,177.00 were contributed to the state's general fund. Numerous other 2002 actions remain pending.

Additionally, the Division cooperates with and assists the U. S. Department of Justice, the U. S. Postal Service, the Federal Trade Commission, the FBI, the Consumer Product Safety Commission, as well as State District Attorneys.

Examples of Deceptive Practices:

- ✍ Representing that a consumer transaction involves rights or obligations that it does not have.
- ✍ Falsely representing that a person is going out of business.
- ✍ Chain referral sales plan.
- ✍ Participation in a pyramid distributorship.
- ✍ Bait and switch sales practices.
- ✍ Misrepresenting the geographic location of a business.
- ✍ Representing that a service or repair is needed when it is not.

Registration

The Division's registration section handles the registration of for-profit health clubs, beauty pageant operators and registration of bonds for Credit Repair companies. Health club and beauty pageant operator registrations brought in \$37,600 to the general fund in 2002.

Legislation

The Division is also responsible for suggesting ways to simplify, clarify and modernize state laws, which govern the protection of consumers and legitimate businesses. By researching consumer protection laws in other states and monitoring changes in Federal laws, the Division is able to keep abreast of any new ideas or trends in consumer protection to better serve Tennesseans.

Complaints by County

Anderson 32	DeKalb 5	Henry 12	McMinn 16	Stewart 7
Bedford 13	Dickson 18	Hickman 9	McNairy 8	Sullivan 80
Benton 7	Dyer 14	Houston 7	Monroe 17	Sumner 96
Blount 48	Fayette 10	Humphreys 9	Montgomery 65	Tipton 27
Bradley 29	Fentress 6	Jackson 3	Morgan 5	Trousdale 5
Campbell 10	Franklin 11	Jefferson 24	Obion 7	Unicoi 10
Cannon 10	Gibson 15	Johnson 3	Overton 10	Union 4
Carroll 4	Giles 10	Knox 212	Pickett 2	Van Buren 2
Carter 21	Grainger 6	Lake 2	Polk 1	Warren 18
Cheatham 22	Greene 30	Lauderdale 10	Putnam 49	Washington 52
Chester 4	Grundy 6	Lawrence 11	Rhea 9	Wayne 4
Claiborne 11	Hamblen 24	Lewis 3	Roane 27	Weakley 10
Clay 3	Hamilton 136	Lincoln 10	Robertson 36	White 24
Cocke 6	Hancock 1	Loudon 22	Rutherford 119	Williamson 98
Coffee 27	Hardeman 12	Macon 4	Scott 2	Wilson 64
Crockett 7	Hardin 9	Madison 43	Sequatchie 3	
Cumberland 32	Hawkins 15	Marion 7	Sevier 45	
Davidson 587	Haywood 1	Marshall 15	Shelby 413	
Decatur 7	Henderson 10	Maury 46	Smith 7	

Complaint Categories and Descriptions

Debtor/Creditor

605 complaints

Billing practices, credit discrimination, garnishment of wages, collection agencies, credit reporting services, credit repair, loans, loan brokers, credit cards (“gold” cards, secured, fraudulent), debt consolidation, banks, checking accounts, insufficient check charges, repossessions, and application of all federal lending, collection, reporting and billing laws.

Utilities

441 complaints

Service or billing practices of water, electric, phone, gas, and cable companies and regulatory questions.

Internet On-Line Auctions

336 complaints

Problems with receipt and quality of items purchased through internet auctions.

Auto Repair

277 complaints

Servicing new and used cars, body work, paint jobs, regular maintenance including dealerships, service stations, independents, and chain specialty shops.

Home Improvements

261 complaints

Includes the quality of work, the workmanship, quality of materials, and incomplete work done to improve, repair, or change a house or structure, including roofing, sun porches, flooring, landscaping, carpeting, driveway resealing, window and siding replacement.

Mail Order

252 complaints

Merchandise not received, poor quality merchandise, refusal to refund, gross misrepresentation (quality, size, function, etc.), returns, unauthorized shipments and billings; also includes problems with television offers, infomercials and home shopping networks.

Insurance **162 complaints**

Complaints about insurance sales, claims, lapsed coverage, cancellations, deceptive practices of agents, slow payment of claims, disputes with repair contractors.

Business Opportunities **154 complaints**

Work at home schemes, chain letters, pyramids, multi-level business investments, franchises, distributorships, vending machine routes; various get-rich-quick schemes.

Used Car Sales **145 complaints**

Problems with policies, practices or techniques in selling used cars; clearing up the misconception that consumers have three days to return a car; explaining “as is” warranties, odometer tampering, detailing (making a used car look deceptively good).

Health Services and Products **143 complaints**

Various problems with the quality of treatment from the medical profession, including eyeglasses, hearing aids, dentures, prostheses and billing disputes.

Travel and Transportation **125 complaints**

Problems relating to conditions and services of hotels, motels and cabins, including reservation problems, false advertising, and complaints against airlines.

Civil Actions **101 complaints**

Records of private lawsuits filed under the Consumer Protection Act; may involve any of these categories.

Computers **78 complaints**

Problems with computers, software, and parts; technical problems with equipment and back-up support from companies.

Telemarketing **76 complaints**

Problems with non-compliance of telemarketers relating to the Do Not Call list policy and deceptive telemarketing activities.

Landlord/Tenant**74 complaints**

Problems with rental property; repairs not made, security deposits, invasion of privacy, wrongful evictions; includes application of Landlord/Tenant laws in Tennessee.

Service Contracts**72 complaints**

Problems with extended warranties; includes maintenance disputes, coverage questions, and problems when the company goes out of business leaving the consumer with no protection.

Lemon Law**68 complaints**

Includes questions about qualifications for lemon law status, advising manufacturer of non-conformity, pursuing information on arbitration, enforcing the law through private court action.

Home Appliances**65 complaints**

Small and large appliances, dishes, cookware, home furnishings and draperies, repairs, warranties, and service contracts on these items.

Advertising**59 complaints**

Deceptive or false advertising in print or electronic media; includes coupon offers, “bait and switch” techniques, inflated claims, insufficient inventory, false billing techniques (i.e. “Yellow Page” solicitations), “going out of business” sales, rain checks, return policies.

Resorts and Campgrounds**58 complaints**

Problems with campgrounds, resorts, and timeshares; includes selling techniques and promotions leading one to believe he/she has won a prize or a mini vacation; gimmicks to get consumers to attend sales presentations; also, consumers told of resale programs that do not exist or maintenance fees that cannot increase when the contract says differently.

Home Furnishings**56 complaints**

Home furnishings and draperies; repairs, warranties, and service contracts on these items only.

Business Files**53 complaints**

Individual files on businesses are kept as the Division receives correspondence, brochures, promotional material, news clips, etc.

Magazine Subscriptions**53 complaints**

Problems with undelivered or overpriced subscriptions, especially those involved with special promotions and causes, usually solicited over the telephone.

Mobile Homes**44 complaints**

Problems with manufactured homes; sales, construction, and guarantees.

New Car Sales**41 complaints**

Problems dealing with selling practices or techniques concerning the sale of a new car; questions on financing, rebates, dealer's invoice, extras, trade-ins, additional charges; explaining that consumers do not have three days to return a car.

Professional Services**36 complaints**

Problems involving attorneys, accountants, and other professional services.

Home Electronics**32 complaints**

Purchases or repairs involving TV's, stereos, VCR's, answering machines, video cameras, and other consumer electronics.

Promotions and Contests**29 complaints**

Sweepstakes, contests, prize offers stating "You have won" or "have been selected to receive," contests with entry fees or purchase requirements, prizes that don't live up to their descriptions, such as "free" vacations, worthless gifts or prizes that were not in compliance with State law.

Real Estate**28 complaints**

Consumer problems with land sales, real estate, and home mortgage companies (i.e. sellers' refusal to give refund), etc.

Health Clubs**25 complaints**

For-profit health club facilities, services and memberships; sales practices, cancellation rights, contract violations, and any other non-compliance with Tennessee's Health Club Law.

Auto Leasing**24 complaints**

Problems involving leased cars and their contracts, false claims, oral promises misconceptions about price.

Moving and Storage**18 complaints**

Services performed by professional moving and/or storage companies.

Unsolicited Fax**16 complaints**

Problems with receiving unsolicited advertisements via fax.

Internet Service Providers**10 complaints**

Problems with providers of in-home internet access.

Schools**9 complaints**

Problems with trade, professional, or other paid instructional services.

Music Industry**8 complaints**

Any problem within the music industry; including recording contracts, publishing houses, contests, demos, songwriter's contracts, etc.

Dry Cleaning**4 complaints**

Problems with dry cleaning facilities; including damaged or lost clothing.

Personal Services**4 complaints**

Includes professional services such as employment agencies, day care centers, dance lessons, barbers/beauticians, attorneys, accountants, cemeteries, funeral homes, modeling agencies, photography studios, moving companies, church directories, towing services, beauty pageants, exterminators, etc.

900 Numbers**3 complaints**

Any pay-per-call number (“entertainment”, information, contests, credit cards, employment, etc), billing problems, questions about “blocks,” unauthorized calls on the phone bill.

Beauty Pageants**1 complaint****Miscellaneous****634 complaints**

Complaints involving consumer product safety, photo finishing, pawn shops, log home packages, pet stores, pet supplies, weight-loss programs, government surplus sales, grocery stores, weights and measures, home solicitation, pager services, dating services, parcel delivery services; virtually every other product or service on the market.

2002 Formal Actions

Formal actions are settlements and litigation brought by the Office of the Attorney General on behalf and request of the Division of Consumer Affairs

Business	Description
Access Resource Services, Inc. (Miss Cleo) - Multi-state	Company allegedly engaged in the promotion and sale of “psychic services” and used business practices which violated the T.C.P.A. (Agreed Final Judgment)
AT&T CORP., a foreign corporation	Company allegedly violated the T.C.P.A. with advertisements for its dial 1 residential wireline long distance service plans. (AVC)
Bill Heard Chev. Corporation—Nashville, dba Bill Heard Chevrolet and Bill Heard Chevrolet—GEO	Auto dealer allegedly charged consumers for “sales tax” on their contracts, but also included the “business tax” in the sales tax monetary amount. Auto dealer also operated promotions allegedly in violation of prize, gift, and award statute. Auto deal also allegedly sold trade-ins before transactions were complete. (AVC)
BP Products North America, Inc. - Multi-state	Company allegedly sold tobacco to minors in FDA test shopping in Tennessee. Investigation also involved company’s methods of limiting those sales. (AVC)
Exxon Mobil Corporation – Multi-state	Company allegedly sold tobacco to minors in FDA test shopping in Tennessee. Investigation also involved company’s methods of limiting those sales. (AVC)
Ford Motor Company – Multi-state	Company allegedly violated the T.C.P.A. with rollover issues involving the Ford Explorer. (Agreed Final Judgment)
GECC/Mont. Ward – Multi-state	Multi-state agreement involves a company allegedly unlawfully obtaining reaffirmance of debt agreements from consumers that have been in Chapter 7 bankruptcy. (Agreed Final Judgment in September 1998)
Household Finance Corp. – Multi-state	Company allegedly violated the T.C.P.A. by misrepresenting loan terms and failing to disclose material information to borrowers. The company allegedly charged far higher interest rates than promised, charged costly prepayment penalties, and deceived consumers about insurance policies. (Agreed Final Judgment)
Kathy Davis, Connie Gaskin, Robert Gaskin, Jr., and Robert Gaskin, Sr., all individually and dba	This company allegedly violated the T.C.P.A. by informing consumers at computer trade shows that it would have a 24-hour turn around on servicing computers and then never respond to consumers who needed assistance. (Summary Judgment Order)

America's Best Computers and America's Best Computer Distributors	
MCI Worldcom Communications, Inc., a foreign corporation	Company allegedly violated the T.C.P.A. with advertisements for its dial 1 residential wireline long distance service plans. (AVC)
Smoley, Ira, individually, Triad Discount Buying Service, Inc., dba Best Price USA and other affiliated companies – Multi-state	Company allegedly charged consumers for a buyer's club, which consumers did not authorize in violation of the T.C.P.A. The company offered a trial period and if the consumer did not opt out within 30 days, they were charged for an annual membership. (Stipulated Final Judgment and Order for Permanent Injunction and Monetary Settlement)
Sprint Communications Company, L.P.	Company allegedly violated the T.C.P.A. with advertisements for its dial 1 residential wireline long distance service plans. (AVC)
US Sales Corp. dba US Purchasing Exchange – Multi-state	Company allegedly advertised by direct mail marketing of magazine subscriptions, consumer products and promotional sweepstakes in violation of T.C.P.A. and the prize, gift, and award status. (AVC)
Walgreen Co., a domestic/foreign corporation – Multi-state	Company allegedly sold tobacco to minors in FDA test shopping in Tennessee. Investigation also involved company's methods of limiting those sales. (AVC)